

REMARKS

In the foregoing amendments, claims 1 and 2 were amended to better define the invention and to include editorial changes. Claims 4 and 5 were added to the application. These claims correspond to the subject matter of claims 1 and 2, but define applicant's invention differently.

Claims 1-5 are in the application for consideration by the examiner.

The Official action objected to the drawings because the reference numbers 21a, 25, 26, 23R, and 23L, which are shown in the drawings, are not set forth in the specification. On even date with the response filed on July 24, 2003, applicant filed a Transmittal of Drawings, which included four sheets of drawings encompassing figures 2-5. In these figures 2-5, the reference numbers 21a, 25, 26, 23R, and 23L were removed. Since the reference numbers are no longer in the drawings, they need not be described in the specification. For these reasons, applicant respectfully requested that the examiner reconsider and withdraw the objection to the drawings as set forth in outstanding Office action.

In a telephone interview on December 10, 2003, Examiner Restifo indicated that he reviewed the drawings filed on July 24, 2003, and he now believes that these drawings are acceptable. Therefore, the aforesaid objection to the drawings is now moot and no proposed change to the drawings is necessary at this time.

Applicant greatly appreciates the allowance of claim 3 in the outstanding Office action. Unfortunately, claims 1 and 2 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. patent No. 3,656,462 of Kostas *et al.* (Kostas) in view of Japanese publication No. JP 9-202150 (JP '150). This Japanese publication was cited in an Information Disclosure Statement (IDS) filed by the applicant. The statement of this rejection is set forth at the top of page 3 of the Official action.

Applicant respectfully submits that the combined teachings of Kostas and JP '150 do not disclose or suggest the invention as set forth in claims 1 and 2 or new claims 4 and 5 within the meaning of 35 U.S.C. § 103(a).

The Official action concluded that it would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the crawler of Kostas with a rear wall and passage holes of JP '150 in order to provide added protection to the hydraulic pump and prevent debris from entering the interior of the frame. Applicant cannot agree with this position. Firstly, even if the structure proposed by JP '150 was added to the device of Kostas, there still would be no rear wall having passage holes, as required in the present claims. This is because JP '150 does not teach a rear wall with passage holes. See, for example, the figures in JP '150, where communication hole 1a is arranged in a side of main frame 1.

Secondly, applicant respectfully submits that there is no motivation for one of ordinary skill in the art, based on the cited teachings, to provide an additional rear wall for protection within the teachings of Kostas. For example, Kostas explains the use of a rear guard plate 65, such as shown in Fig. 5 therein, which protects the drive motor 58, hoses 63, and adjacent components. Where is the need for an additional guard blade in Kostas? Thirdly, applicant's claims define that the rear wall is part of the frame. This is quite different than the use of an additional rear wall for protection as proposed in the outstanding Office action.

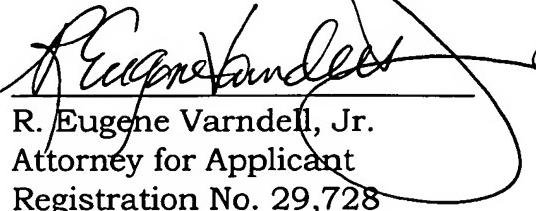
Applicant's claims define that the rear wall is a frame member (or part) of the vehicle body frame, and that the hydraulic piping from the hydraulic pump extends from the interior of the vehicle body frame through the rear wall (frame member) of the vehicle body frame to an exterior of the vehicle body frame. The teachings of Kostas and JP '150 simply do not contemplate or suggest this structure of applicant's claims. Therefore, applicant respectfully submits that claims 1, 2, 4, and 5 are patently distinguishable from these teachings.

For the above reasons, applicant respectfully submits that claims 1, 2, 4, and 5 are patently distinguishable from the teachings of Kostas and JP '150 within the meaning of 35 U.S.C. § 103. Therefore, applicant respectfully requests that the examiner reconsider and withdraw this rejection.

In view of the foregoing amendments and remarks, favorable consideration and a formal allowance of claims 1, 2, 4, and 5, together with allowed claim 3, are respectfully requested. While it is believed that the present response places the application in condition for allowance, should the examiner have any comments or questions, it is respectfully requested that the undersigned be telephoned at the below listed number to resolved any outstanding issues.

In the event this paper is not timely filed, applicant hereby petitions for an appropriate extension of time. The fee therefor, as well as any other fees which may become due, may be charged to our deposit account No. 22-0256.

Respectfully submitted,
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